

NEVADA'S
FACE OF FORECLOSURE
— RECOMMENDATIONS —



FACE OF FORECLOSURE

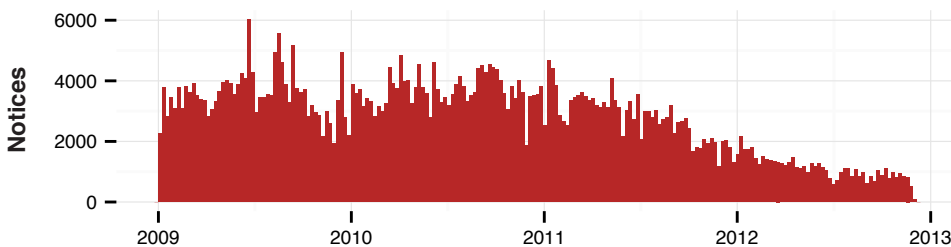
RECOMMENDATIONS

Recommendation 1: Amend AB 284 from 2011 Session

AB 284 from the 2011 Session established a standard of care by which trustees in foreclosure sales must follow prior to foreclosing on properties. As with any major public policy initiative, the legislation has created some unintended consequences in the marketplace. The Nevada Land Title Association has been at the forefront of resolving those unintended consequences, and the Nevada Association of REALTORS® believes that legislators need to focus on the following areas:

1. Defining the term “personal knowledge,”
2. Addressing how trustees should handle those properties, and
3. Clearing up any discrepancies with the required affidavit and considering a standardized affidavit for all properties subjected to the statute.

All Statewide Foreclosure Notices, Jan 1, 2009 – Nov 30, 2012



Recommendation 2: Establish a Bona Fide Purchaser (BFP) Statute for All Foreclosed Properties:

This is an important issue that is focused on the protection of not only every consumer in Nevada, but also every real estate transaction in the state. This concept refers to a good faith party who purchases a property, especially those properties subjected to AB 284 standards, without any notice of other parties' claims to title of that property. Currently, Nevada's statutes are void of any such authority, and we believe that it is imperative that Nevada policymakers ensure that those homeowners are protected and that the real estate transaction itself is preserved and protected.

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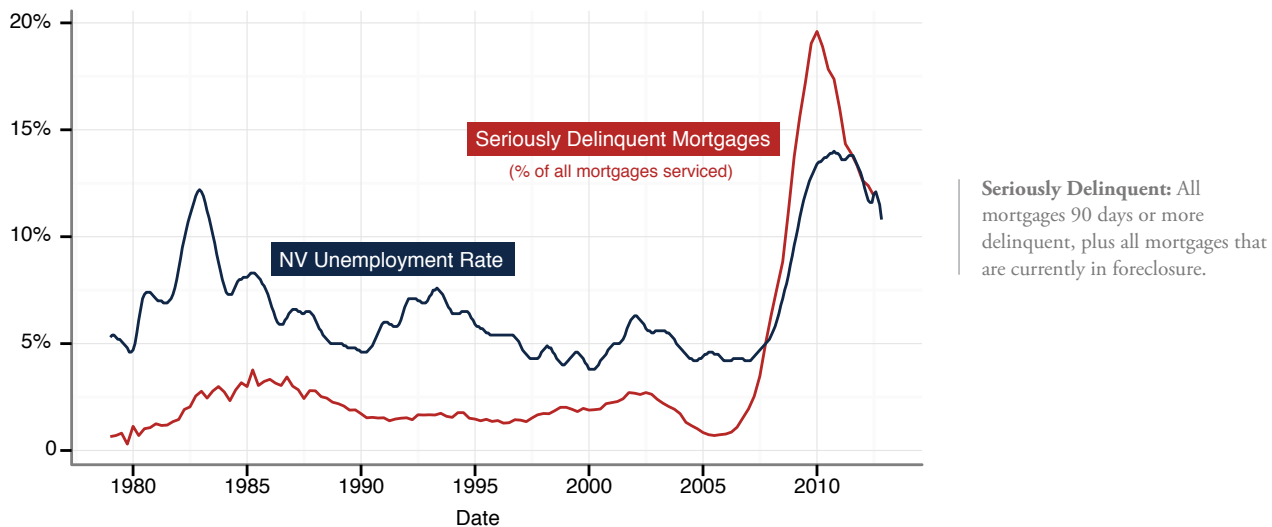
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**Recommendation 3:
Addressing Abandoned Properties**

There is no denying that some individuals in Nevada have opted to just walk away from their homes. In both the 2010 and 2012 Face of Foreclosure reports, nowhere was this more evident than with respect to public attitudes towards the concept of strategic defaults (page 23 of the 2010 report, and page 21 of the 2012 report).

Regardless of the morality of these public attitudes, public policymakers must acknowledge that such public sentiments have left certain properties in some stage of abandonment. According to the Lied Institute for Real Estate Studies, nearly 84,215 units in the Greater Las Vegas Area are considered vacant (3rd Quarter Report on Housing Market Conditions). Moreover, inventory levels throughout Nevada have moved to critically low levels leaving average homebuyers out of the marketplace. Thus, increasing inventory by identifying these abandoned homes and establishing a quicker process to move these homes back into the marketplace is good public policy.

With this in mind, legislators should enact legislation which streamlines the process for bringing these abandoned properties back into the marketplace. Some of the criteria which should be used by policymakers in determining whether a property is abandoned versus vacant should include, but not be limited to: residences that are not occupied by legal titled and vested property owners, or their designee; the building or structure is unsuitable for occupancy, or the structure has not been occupied for a certain period of time, or properly maintained; structural damage has occurred or is visually evident (broken windows, boarded up entrances or windows, etc.); and utility services are no longer in service (gas, water, electric, trash).

Seriously Delinquent Mortgages vs. Seasonally Adjusted Unemployment Rate NV, 1979-2012

Source: Mortgage Bankers Association National Delinquency Survey, All States; Bureau of Labor Statistics Local Area Unemployment Rate, Seasonally-Adjusted

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Recommendation 4: Homeowners' Bill of Rights

Other states have enacted homeowners' bill of rights. Consumer protection is at the forefront of many of these initiatives. We believe that consumer protection for the borrower is extremely important. However, a balance needs to be struck between the homeowners' rights, and precautions around wrongful foreclosures and the lending community's ability to lend money to prospective borrowers. When those scales are tipped towards one entity over another, bad things happen. Therefore, while additional rights for homeowners and consumers might be needed – such as protections against dual tracking by lenders – policymakers are urged to not overstep those boundaries.

Recommendation 5: Attorneys Doing Real Estate

Existing statutes clearly address what attorneys can and cannot do in the course of a real estate transaction. Those attorneys play a critical role in advising the homeowner, their client, on the legal aspects of a real estate transaction. However, many law firms today have overstepped those boundaries and are pushing clients into loan modifications or bankruptcy when, in reality, a short sale is the best step for the consumer. Policymakers need to closely examine the role that law firms are playing in today's real estate transactions, and if necessary, adjust existing statute or administrative code to clear up legislative intent on the issue.

Recommendation 6: Nevada Needs to Remain a Non-Judicial Foreclosure State

Nevada is a non-judicial foreclosure state. What does this mean? It means that the foreclosure process itself can work outside the court system. Why is this important?

It is important for multiple reasons: a) in an already overburdened court system, requiring all foreclosures to move through the judicial process, even if the judiciary branch established a new foreclosure fast track system, places increased costs and time on a judiciary system that is challenged to keep up with its existing responsibilities; b) as highly touted and successful as the State Mediation Program may be, policymakers must acknowledge that after four years of the program's existence, many challenges still remain; c) moving the state to a judicial foreclosure state will only add costs to Nevadans if every foreclosure involves hiring an attorney, and that will come for all parties involved, the homeowner, the lender, and other ancillary entities associated with the real estate process, such as title companies and real estate brokerages.

For all the aforementioned reasons, policymakers must resist the calls to move Nevada to a judicial foreclosure state. There are adequate protections, particularly with the enactment of AB 284 from last session, that now shelters the homeowner from wrongful foreclosures.

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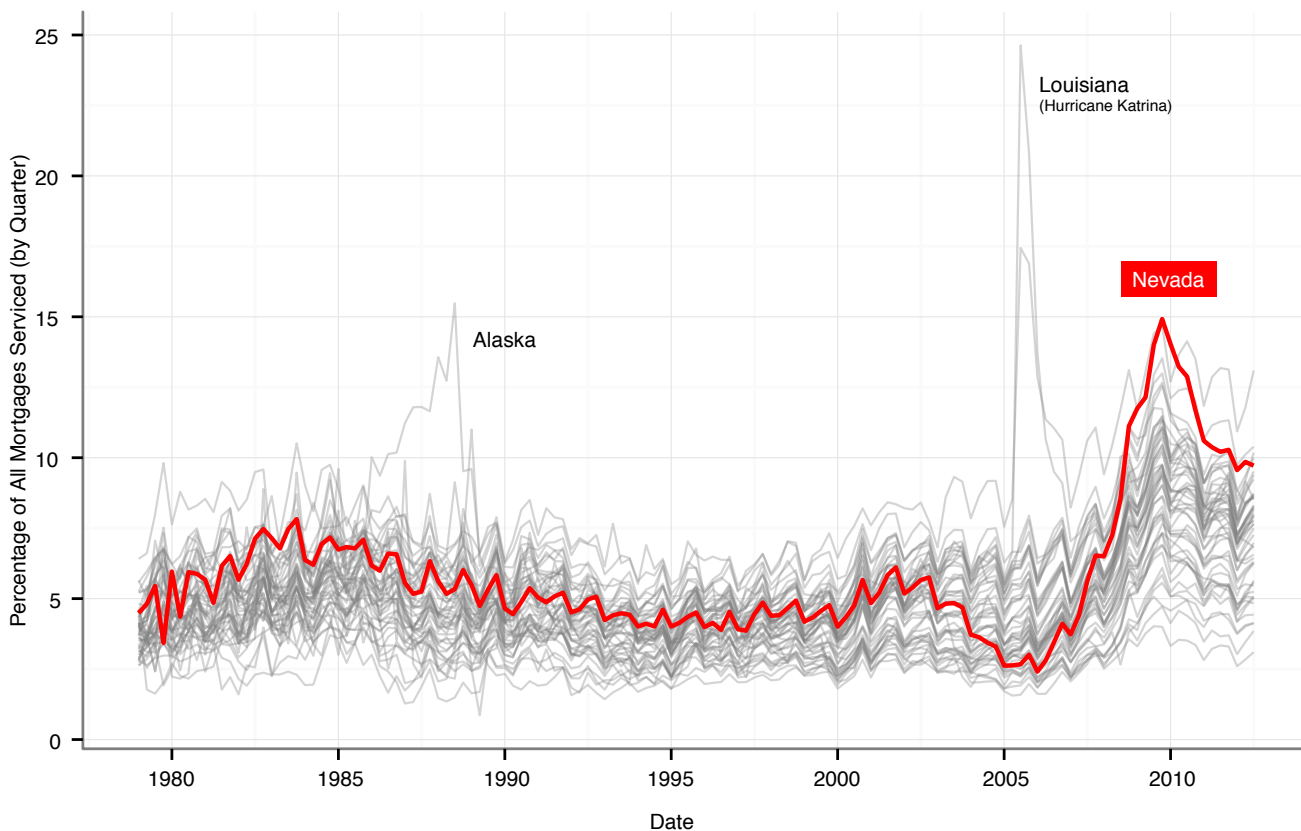
Recommendation 7: Extension & Expansion of the Mortgage Debt Cancellation Relief Act

Congress needs to continue to extend the debt relief act until the housing crisis in Nevada is abated. With Nevada still in the throes of the foreclosure crisis, not extending this act will cause tremendous burdens on homeowners, and more importantly has the possibility of retarding the housing market and its fragile recovery.

In addition, as lenders and borrowers utilize provisions contained in things like the National Mortgage Settlement, some of those mechanisms need to be considered as part of an expansion of the Mortgage Debt Relief Act. The Settlement has created an incentive for the banks to work with distressed borrowers through loan modifications, short sales, deeds in lieu, forgiving deficiencies or foreclosure. Normally, distressed borrowers would be forced to pay taxes on this “phantom income”. The Relief Act has exempted home owners from paying taxes on the amount of money their mortgage lender forgives and has served as a shot in the arm for the housing industry and distressed homeowners.

Homeowners shouldn't be forced to pay taxes on money they've already lost with cash they never received - and never will receive. The housing market, while recovering, is still fragile enough that this tax relief will need to be extended beyond 2013, and its application towards other programs initiated by the federal government needs to be re-examined.

All Mortgages Past Due by State, 1979 Quarter 1 - 2012 Quarter 2



Source: Mortgage Bankers Association National Delinquency Survey, All States